

Clarification on . . .

MINOR SUBDIVISIONS

In the Residential Site Improvement Standards

As defined in the Municipal Land Use Law, a minor subdivision does not include any new streets. The street requirements of the Residential Site Improvement Standards would apply only if the municipal approving authority requires improvement of the existing street in connection with approval of the application. The same would be true of the other requirements of the standards. They apply only if the municipal approving authority requires improvements (curbs, sidewalks, etc.) as a condition for granting approval.

No waiver request is necessary. It is within the authority of the municipality to grant exceptions for minor subdivisions. For example, if a two-lot minor subdivision is on an existing roadway with no sidewalks and the surrounding property is fully developed, then the municipal approving authority would probably grant a request for an exception to the sidewalk requirements. However, if the adjacent property is undeveloped and is likely to be developed as part of the municipal master plan, then the municipality might be inclined to deny an exception request and to require the installation of sidewalks in anticipation of future development.

The following sections of the standards are relevant to municipal decisions on applying these standards to minor subdivisions:

N.J.A.C. 5:21-4.8(b) deals with the continuation of existing streets and permits the municipality to require that right-of-way and cartway widths match the existing street.

N.J.A.C. 5:21-4.3(d) permits the municipality to waive the curb requirements to preserve a community's rural character (among other reasons).

In short, the standards act as a cap on what a municipality may require in connection with a minor subdivision application. A municipality is not, however, bound to require compliance with them. The municipal board having jurisdiction can grant exceptions as it deems appropriate. Where such exceptions are not granted, then the improvements required must meet, but cannot be required to exceed, the standards.